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ORDINANCE NO. 3827

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES IN ORDER TO CLARIFY THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, AMENDING ECDC 20.110.040(D) TO CLARIFY APPEAL PROCEDURES TO SUPERIOR COURT, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the Washington State Supreme Court in its decision in *Post v. Tacoma*, 217 P.3d 1179 (2009) has determined that code enforcement procedures which provide for continuing penalties without the opportunity for appeal is a violation of due process; and

WHEREAS, Chapter 20.110 ECDC provides for specific notice of violation [ECDC 20.110.040(A)(2)] and of repeat violations [ECDC 20.110.040(B)(2)]; and

WHEREAS, the code enforcement procedures also provide for opportunity for administrative appeal of a notice of violation [ECDC 20.110.040(C)]; and

WHEREAS, however, ECDC 20.110.040(F) provides for continuing violations with the imposition of a fine without the specific provision for additional notice of hearing; and

WHEREAS, ECDC 20.110.040(D) should be clarified to distinguish it from the aforementioned administrative appeal, to specify a judicial appeal by Chapter 35.70C RCW and to provide explicit appeal information; and

WHEREAS, the City Council deems it to be in the public interest to clarify that continuing violations shall be accompanied by additional notice of violation and opportunity for

hearing; and

WHEREAS, this an earlier interim version of this ordinance was adopted pursuant to RCW 36.70A.390 and referred to the Planning Board for review and recommendation; and

WHEREAS, after holding a public hearing and reviewing the aforementioned interim ordinance, the Planning Board has forwarded a recommendation to the City Council; and

WHEREAS, the City Council held its own public hearing on this ordinance on December 7, 2010; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Amended. Subsection (F) of ECDC 20.110.040, Enforcement Procedures, Monetary Penalties, is hereby amended to read as follows:

20.110.040 Enforcement procedures.

...

F. *Monetary Penalties.* Except where a different penalty is specifically established by this code, violations shall be assessed at the rate of \$100 per day or a portion of day thereof, for each and every day after the service of the notice of civil violation. The violations Hearing Examiner may also grant an extension of the date upon which fines begin in order to allow for a reasonable period of abatement. Such extension shall not exceed ten (10) calendar days. Following a finding of the Hearing Examiner of the existence of a violation at the appeal hearing on the expiration of the appeal period, continuing fines may be assessed by the provision of additional notice of civil violation pursuant to 20.110.040(B)(2) and an opportunity for hearing. No additional fine for a continuing violation may be assessed without the provision of notice and the opportunity for a hearing.

...

Section 2. Further Amended. Subsection (D) of ECDC 20.110.040, Enforcement

Procedures, Appeal to Superior Court, is hereby amended to read as follows:

20.110.040 Enforcement procedures

...

D. *Appeal to Superior Court.* The determination of the Hearing Examiner is final and shall be appealable to Superior Court in accordance with Chapter 36.70C RCW.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

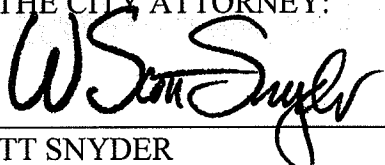
APPROVED:


MAYOR MIKE COOPER

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	12-03-2010
PASSED BY THE CITY COUNCIL:	12-07-2010
PUBLISHED:	12-13-2010
EFFECTIVE DATE:	12-18-2010
ORDINANCE NO. <u>3827</u>	

SUMMARY OF ORDINANCE NO. 3827

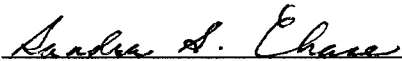
of the City of Edmonds, Washington

On the 7th day of December, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3827. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES IN ORDER TO CLARIFY THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, AMENDING ECDC 20.110.040(D) TO CLARIFY APPEAL PROCEDURES TO SUPERIOR COURT, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 8th day of December, 2010.


CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



SUMMARY OF ORDINANCE NO. 3827 of the City of Edmonds, Washington

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The full text of this Ordinance will be mailed upon request.

DATED this 8th day of December, 2010.

CITY CLERK, SANDRA S. CHASE

Published: December 13, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3827

re: Monetary Penalties

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

December 13, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Groll

Principal Clerk

Subscribed and sworn to before me this

13th

day of December, 2010

[Signature]
Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

RECEIVED

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EDMONDS CITY CLERK